

Members:

Rep. Claire Leuck, Chair
Rep. Dennis Heeke
Rep. Rolland Webber
Rep. William Friend
Rep. Jack Lutz
Rep. Michael Smith
Sen. Harold Wheeler, Vice-Chair
Sen. Robert Meeks
Sen. John Waterman
Sen. James Lewis
Sen. Katie Wolf
Sen. Richard Young



WATER RESOURCES STUDY COMMITTEE

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Authority: IC 2-5-25

MEETING MINUTES

Meeting Date: October 13, 1998
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St., Room 156-C
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Rep. Claire Leuck, Chair; Rep. Rolland Webber; Rep. William Friend; Rep. Jack Lutz; Rep. Michael Smith; Sen. Robert Meeks; Sen. James Lewis; Sen. Katie Wolf.

Members Absent: Rep. Dennis Heeke; Sen. Harold Wheeler; Sen. John Waterman; Sen. Richard Young.

Rep. Leuck, Chair of the Water Resources Study Committee (WRSC), called the meeting to order at 1:15 p.m.

Indiana's Water Shortage Plan

Jim Hebenstreit, Assistant Director of the Department of Natural Resources' (DNR) Division of Water, provided Committee members with a copy of *Indiana's Water Shortage Plan*.¹ He gave the following testimony. The water shortage plan was developed in 1994 in response to legislation during the 1991 legislative session. The legislation was in response to a drought in 1988. The water shortage plan is responsive, not proactive.

In response to a question from Rep. Smith, Mr. Hebenstreit stated that there is an adequate supply of water in Indiana. He reported that DNR has been collecting data on water use since 1983. He also noted that there are some isolated water problems in the state, such as in Rensselaer and Delphi.

In response to a question from Rep. Leuck, Mr. Hebenstreit explained that the problems in Rensselaer and Delphi are the result of groundwater withdrawal by municipal wells and quarries that are competing against each other. Sen. Wolf explained that U.S. Aggregates, Inc. drilled a new well and gifted it to the city of Delphi. She added that the city is drilling another well as a backup. Mr. Hebenstreit noted that the

¹This document is on file in the Legislative Information Center (LIC), Room 230, State House, Indianapolis, Indiana. The telephone number of the LIC is (317) 232-9856, and the mailing address is 200 W. Washington St., Suite 301, Indianapolis, Indiana 46204-2789.

problem in Delphi was the location of the well, not the lack of water. In response to a question from Sen. Meeks, Sen. Wolf explained that the new well in Delphi is located on land belonging to U.S. Aggregates, Inc. and is near the old well.

In response to a question from Rep. Smith, Mr. Hebenstreit stated that it is difficult to say how long it takes a well to recharge. He added that the DNR has the authority to restrict ground water withdrawals if recharging is taking too long.

In response to a question from Rep. Leuck, Mr. Hebenstreit pointed out that after the water shortage plan was completed, a copy was forwarded to the governor and the chair of the WRSC. He added that no action was taken on the recommendations in the plan.

Glenn Pratt, legislative committee chair for the Sierra Club, remarked that the water shortage plan is a good start. However, it needs to be implemented so new companies know the ground rules when they start a business in Indiana. The state needs river basin water plans. He stressed that the state needs to move forward with this plan and not wait until a drought.

Bill Hayden, representing the Sierra Club, the Izaak Walton League, and the Save the Dunes Council, described IC 13-2-6.1-10, which required DNR to develop a water shortage plan. He noted that the statute required DNR to establish the relative priorities of water uses. However, this was not done. He then noted that the statute also required DNR to present the plan to the WRSC for a discussion of possible legislation to implement the plan. Mr. Hayden requested that the WRSC grapple with this issue and enact legislation to prioritize water uses during a drought. He explained that currently, if there is a drought, the governor has to act under emergency powers.

In response to a question from Rep. Leuck, Mr. Hebenstreit stated that he does not know how many states have water usage priorities in statute. He added that Indiana's water shortage plan is similar to Pennsylvania's, but he does not know if Pennsylvania has a statute.

In response to a question from Rep. Leuck, Mr. Hayden said he would like the WRSC to take a look at the plan and decide if the water use priorities section of the plan listed on page 22 is a possible approach. He encouraged the WRSC to recommend legislation to the General Assembly that recommends that approach or a similar one. He added that minimum stream flow for aquatic resources needs to be considered as a priority.

Sen. Meeks noted that if the water use priorities are set in code, they cannot be adapted geographically. In response to a question from Sen. Meeks, Mr. Hayden explained that the entire Water Shortage Task Force voted on the plan.

Mr. Hebenstreit noted that there should probably be a standing drought task force that meets regularly.

In response to a question from Rep. Lutz, Sen. Meeks noted that there are six types of drought listed on page 27 of the plan.

Mary Uhler, with the city of Indianapolis, noted that the EPA is becoming interested in water flow issues because of water quality issues. She remarked that the task force is a good idea as it brings expertise to the issue.

Clark Kahlo, a local canoeist, noted that the state does have low flow conditions. There needs to be better river basin management. There should be long-term planning, not just contingency planning. He encouraged the WRSC and DNR to coordinate on this issue.

Mr. Pratt recommended the formation of a water shortage, not just drought, task force and an advisory group to the WRSC. He stressed that the state needs to have plans ready to implement. He noted that the plans can vary by local area.

In response to a question from Sen. Wolf, Mr. Hebenstreit indicated that Pennsylvania has a water

shortage task force.

Rep. Leuck questioned whether the WRSC should recommend the establishment of a task force. She then asked Mr. Hebenstreit to get more information on Pennsylvania's statute and task force.

Rep. Smith noted that the WRSC should encourage the formation of an advisory body to prioritize water uses.

Committee members requested that a resolution recommending the establishment of a water shortage task force be drafted. Ms. Adams indicated that she would circulate the draft resolution to Committee members.

Draft Concurrent Resolution

Jeanette Adams, Attorney for the WRSC, explained the draft concurrent resolution endorsing the Clean Water Indiana Program.² A motion to recommend the resolution to the General Assembly was made by Sen. Lewis and seconded. The motion passed by unanimous voice vote.

Alternative Solutions to Deal with Damages Caused by Water Runoff

Ms. Adams provided Committee members with a memo regarding statutory alternatives for surface water runoff damages and a copy of a memo written by Craig Mortell regarding the Common Enemy Rule.³

Sen. Meeks noted that some counties are adopting a surface water plan for commercial developments. He stated that he thinks the state should mandate the development of a plan in every county.

Rep. Smith noted that in his own county, a permit will not be issued until surface water is addressed.

Sen. Wolf questioned what would happen to the Common Enemy Rule if the state mandated the adoption of local ordinances. Ms. Adams explained that local ordinances would supersede the Common Enemy Rule. She added that the Common Enemy Rule would still apply where there is no commercial development, such as between two farms.

Rep. Smith noted that each area within his county has a planning commission to deal with these issues.

In response to a question from an audience member, Ms. Adams noted that the Common Enemy Rule does not relate to sewage runoff. Rep. Leuck remarked that the county board of health should be notified about sewage runoff.

In response to a question from Sen. Meeks, Rep. Leuck indicated that not every county has a planning commission.

Committee members asked that draft legislation mandating local units of government to adopt an ordinance concerning surface water runoff be prepared. Ms. Adams indicated that she would circulate the draft legislation to Committee members.

Rep. Leuck adjourned the meeting at 2:30 p.m.

²This resolution is on file in the LIC (see footnote 1).

³These memos are on file in the LIC (see footnote 1).